

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LINDA SPIONE, ON BEHALF OF HERSELF AND  
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

-against-

KIRSCHENBAUM PHILLIPS & LEVY, PC, ELLIOT  
PHILLIPS, IRWIN KIRSCHENBAUM, VELOCITY  
INVESTMENTS, L.L.C., and JAMES MASTRIANI

Defendants.

Docket No. 16-cv-06211

**NOTICE OF REMOVAL**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

**PLEASE TAKE NOTICE**, that pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants Velocity Investments, LLC and James Mastriani (“Velocity”) hereby give notice of the removal of this action from the Supreme Court of the State of New York, County of Westchester, where it is now pending, to the United States District Court for the Southern District of New York. In support of this Notice of Removal, Defendant Velocity states:

1. Plaintiff filed a Summons with Notice in this action styled *Linda Spione, on behalf of herself and all others similarly situated v. Kirschenbaum Phillips & Levey, PC, Elliot Phillips, Irwin Kirschenbaum, Velocity Investments, L.L.C., and James Mastriani*, bearing Index No. 511550/2016 before the Supreme Court of the State of New York, County of Westchester. A copy of the Summons with Notice is annexed hereto as Exhibit A.

2. On July 6, 2016, Plaintiff filed his Complaint-Class Action via the New York State Courts Electronic Filing System (“NYSCEF”). A copy of the Complaint-Class Action is annexed hereto as Exhibit B.

3. Velocity received the Complaint-Class Action on July 6, 2016 via the NYSCEF system.

4. The Complaint alleges, in sum and substance, that the defendants violated the Federal Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.*. Accordingly, this action may be removed pursuant to 28 U.S.C. § 1441(b) as this Court has federal question jurisdiction under 28 U.S.C. §1331.

5. Additionally, the Court has supplemental jurisdiction over any state law claims, to the extent such claims exist, pursuant to 28 U.S.C. § 1367.

6. All parties to this action have consented to the removal of this action to Federal Court. A copy of the Stipulation of Removal is annexed hereto as Exhibit C.

7. A civil cover sheet and the payment of the required filing fee accompanies this Notice.

8. Written notice of this Notice of Removal will be filed in the Supreme Court of the State of New York, County of Westchester.

**WHEREFORE**, Defendant Velocity respectfully requests that this action be removed from the Supreme Court of the State of New York, County of Westchester to the United States District Court for the Southern District of New York.

Dated: New York, New York  
August 4, 2016

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